

LEGISLATURE OF NEBRASKA
NINETY-SIXTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 523

Introduced by Suttle, 10

Read first time January 19, 1999

Committee: Health and Human Services

A BILL

1 FOR AN ACT relating to nursing; to amend sections 71-1,132.05 and
2 71-1,132.31, Reissue Revised Statutes of Nebraska; to
3 adopt the Nurse Licensure Compact; to define a term; to
4 provide for a compact administrator; to provide an
5 operative date; and to repeal the original sections.
6 Be it enacted by the people of the State of Nebraska,

1 Section 1. The Nurse Licensure Compact is hereby enacted
2 into law and entered into with all other jurisdictions legally
3 joining therein in the form substantially as follows:

4 ARTICLE I. Findings and Declaration of Purpose

5 (a) The party states find that:

6 (1) The health and safety of the public are affected by
7 the degree of compliance with and the effectiveness of enforcement
8 activities related to state nurse licensure laws;

9 (2) Violations of nurse licensure and other laws
10 regulating the practice of nursing may result in injury or harm to
11 the public;

12 (3) The expanded mobility of nurses and the use of
13 advanced communication technologies as part of our nation's health
14 care delivery system require greater coordination and cooperation
15 among states in the areas of nurse licensure and regulation;

16 (4) New practice modalities and technology make
17 compliance with individual state nurse licensure laws difficult and
18 complex;

19 (5) The current system of duplicative licensure for
20 nurses practicing in multiple states is cumbersome and redundant to
21 both nurses and states.

22 (b) The general purposes of this compact are to:

23 (1) Facilitate the states' responsibility to protect the
24 public's health and safety;

25 (2) Ensure and encourage the cooperation of party states
26 in the areas of nurse licensure and regulation;

27 (3) Facilitate the exchange of information between party
28 states in the areas of nurse regulation, investigation, and adverse

1 actions;

2 (4) Promote compliance with the laws governing the
3 practice of nursing in each jurisdiction;

4 (5) Invest all party states with the authority to hold a
5 nurse accountable for meeting all state practice laws in the state
6 in which the patient is located at the time care is rendered
7 through the mutual recognition of party state licenses.

8 ARTICLE II. Definitions

9 As used in this compact:

10 (a) Adverse action means a home or remote state action.

11 (b) Alternative program means a voluntary,
12 nondisciplinary monitoring program approved by a nurse licensing
13 board.

14 (c) Coordinated licensure information system means an
15 integrated process for collecting, storing, and sharing information
16 on nurse licensure and enforcement activities related to nurse
17 licensure laws which is administered by a nonprofit organization
18 composed of and controlled by state nurse licensing boards.

19 (d) Current significant investigative information means:

20 (1) Investigative information that a licensing board,
21 after a preliminary inquiry that includes notification and an
22 opportunity for the nurse to respond if required by state law, has
23 reason to believe is not groundless and, if proved true, would
24 indicate more than a minor infraction; or

25 (2) Investigative information that indicates that the
26 nurse represents an immediate threat to public health and safety
27 regardless of whether the nurse has been notified and had an
28 opportunity to respond.

1 (e) Home state means the party state which is the nurse's
2 primary state of residence.

3 (f) Home state action means any administrative, civil,
4 equitable, or criminal action permitted by the home state's laws
5 which is imposed on a nurse by the home state's licensing board or
6 other authority including actions against an individual's license
7 such as revocation, suspension, probation, or any other action
8 which affects a nurse's authorization to practice.

9 (g) Licensing board means a party state's regulatory body
10 responsible for issuing nurse licenses.

11 (h) Multistate licensure privilege means current,
12 official authority from a remote state permitting the practice of
13 nursing as either a registered nurse or a licensed practical or
14 vocational nurse in such party state. All party states have the
15 authority, in accordance with existing state due process law, to
16 take actions against the nurse's privilege such as revocation,
17 suspension, probation, or any other action which affects a nurse's
18 authorization to practice.

19 (i) Nurse means a registered nurse or licensed practical
20 or vocational nurse, as those terms are defined by each party's
21 state practice laws.

22 (j) Party state means any state that has adopted this
23 compact.

24 (k) Remote state means a party state, other than the home
25 state:

26 (1) Where the patient is located at the time nursing care
27 is provided; or

28 (2) In the case of the practice of nursing not involving

1 a patient, in such party state where the recipient of nursing
2 practice is located.

3 (1) Remote state action means:

4 (1) Any administrative, civil, equitable, or criminal
5 action permitted by a remote state's laws which is imposed on a
6 nurse by the remote state's licensing board or other authority,
7 including actions against an individual's multistate licensure
8 privilege to practice in the remote state; and

9 (2) Cease and desist and other injunctive or equitable
10 orders issued by remote states or the licensing boards thereof.

11 (m) State means a state, territory, or possession of the
12 United States, the District of Columbia, or the Commonwealth of
13 Puerto Rico.

14 (n) State practice laws means those individual party
15 states' laws and regulations that govern the practice of nursing,
16 define the scope of nursing practice, and create the methods and
17 grounds for imposing discipline. State practice laws does not
18 include the initial qualifications for licensure or requirements
19 necessary to obtain and retain a license, except for qualifications
20 or requirements of the home state.

21 ARTICLE III. General Provisions and Jurisdiction

22 (a) A license to practice registered nursing issued by a
23 home state to a resident in that state will be recognized by each
24 party state as authorizing a multistate licensure privilege to
25 practice as a registered nurse in such party state. A license to
26 practice licensed practical or vocational nursing issued by a home
27 state to a resident in that state will be recognized by each party
28 state as authorizing a multistate licensure privilege to practice

1 as a licensed practical or vocational nurse in such party state.
2 In order to obtain or retain a license, an applicant must meet the
3 home state's qualifications for licensure and license renewal as
4 well as all other applicable state laws.

5 (b) Party states may, in accordance with state due
6 process laws, limit or revoke the multistate licensure privilege of
7 any nurse to practice in their state and may take any other actions
8 under their applicable state laws necessary to protect the health
9 and safety of their citizens. If a party state takes such action,
10 it shall promptly notify the administrator of the coordinated
11 licensure information system. The administrator of the coordinated
12 licensure information system shall promptly notify the home state
13 of any such actions by remote states.

14 (c) Every nurse practicing in a party state must comply
15 with the state practice laws of the state in which the patient is
16 located at the time care is rendered. In addition, the practice of
17 nursing is not limited to patient care, but shall include all
18 nursing practice as defined by the state practice laws of a party
19 state. The practice of nursing will subject a nurse to the
20 jurisdiction of the nurse licensing board and the courts, as well
21 as the laws, in that party state.

22 (d) This compact does not affect additional requirements
23 imposed by states for advanced practice registered nursing.
24 However, a multistate licensure privilege to practice registered
25 nursing granted by a party state shall be recognized by other party
26 states as a license to practice registered nursing if one is
27 required by state law as a precondition for qualifying for advanced
28 practice registered nurse authorization.

1 (e) Individuals not residing in a party state shall
2 continue to be able to apply for nurse licensure as provided for
3 under the laws of each party state. However, the license granted
4 to these individuals will not be recognized as granting the
5 privilege to practice nursing in any other party state unless
6 explicitly agreed to by that party state.

7 ARTICLE IV. Applications for Licensure in a Party State

8 (a) Upon application for a license, the licensing board
9 in a party state shall ascertain, through the coordinated licensure
10 information system, whether the applicant has ever held, or is the
11 holder of, a license issued by any other state, whether there are
12 any restrictions on the multistate licensure privilege, and whether
13 any other adverse action by any state has been taken against the
14 license.

15 (b) A nurse in a party state shall hold licensure in only
16 one party state at a time, issued by the home state.

17 (c) A nurse who intends to change primary state of
18 residence may apply for licensure in the new home state in advance
19 of such change. However, new licenses will not be issued by a
20 party state until after a nurse provides evidence of change in the
21 primary state of residence satisfactory to the new home state's
22 licensing board.

23 (d) When a nurse changes primary state of residence by:

24 (1) Moving between two party states, and obtains a
25 license from the new home state, the license from the former home
26 state is no longer valid;

27 (2) Moving from a nonparty state to a party state, and
28 obtains a license from the new home state, the individual state

1 license issued by the nonparty state is not affected and will
2 remain in full force if so provided by the laws of the nonparty
3 state;

4 (3) Moving from a party state to a nonparty state, the
5 license issued by the prior home state converts to an individual
6 state license, valid only in the former home state, without the
7 multistate licensure privilege to practice in other party states.

8 ARTICLE V. Adverse Actions

9 In addition to the general provisions described in
10 Article III, the following provisions apply:

11 (a) The licensing board of a remote state shall promptly
12 report to the administrator of the coordinated licensure
13 information system any remote state action, including the factual
14 and legal basis for such action, if known. The licensing board of
15 a remote state shall also promptly report any current significant
16 investigative information yet to result in a remote state action.
17 The administrator of the coordinated licensure information system
18 shall promptly notify the home state of any such report.

19 (b) The licensing board of a party state shall have the
20 authority to complete any pending investigations for a nurse who
21 changes primary state of residence during the course of such
22 investigations. It shall also have the authority to take
23 appropriate actions and shall promptly report the conclusions of
24 such investigations to the administrator of the coordinated
25 licensure information system. The administrator of the coordinated
26 licensure information system shall promptly notify the new home
27 state of any such actions.

28 (c) A remote state may take adverse action affecting the

1 multistate licensure privilege to practice within that party state.
2 However, only the home state shall have the power to impose adverse
3 action against the license issued by the home state.

4 (d) For purposes of imposing adverse action, the
5 licensing board of the home state shall give the same priority and
6 effect to reported conduct received from a remote state as it would
7 if such conduct had occurred within the home state. In so doing,
8 it shall apply its own state laws to determine appropriate action.

9 (e) The home state may take adverse action based on the
10 factual findings of the remote state, so long as each state follows
11 its own procedures for imposing such adverse action.

12 (f) Nothing in this compact shall override a party
13 state's decision that participation in an alternative program may
14 be used in lieu of licensure action and that such participation
15 shall remain nonpublic if required by the party state's laws.
16 Party states must require nurses who enter any alternative programs
17 to agree not to practice in any other party state during the term
18 of the alternative program without prior authorization from such
19 other party state.

20 ARTICLE VI. Additional Authorities Invested in Party

21 State Nurse Licensing Boards

22 Notwithstanding any other powers, party state nurse
23 licensing boards shall have the authority to:

24 (a) If otherwise permitted by state law, recover from the
25 affected nurse the costs of investigations and disposition of cases
26 resulting from any adverse action taken against that nurse;

27 (b) Issue subpoenas for both hearings and investigations
28 which require the attendance and testimony of witnesses and the

1 production of evidence. Subpoenas issued by a nurse licensing
2 board in a party state for the attendance and testimony of
3 witnesses or the production of evidence from another party state
4 shall be enforced in the latter state by any court of competent
5 jurisdiction, according to the practice and procedure of that court
6 applicable to subpoenas issued in proceedings pending before it.
7 The issuing authority shall pay any witness fees, travel expenses,
8 mileage, and other fees required by the service statutes of the
9 state where the witnesses or evidence are located;

10 (c) Issue cease and desist orders to limit or revoke a
11 nurse's authority to practice in their state;

12 (d) Promulgate uniform rules and regulations as provided
13 for in Article VIII(c).

14 ARTICLE VII. Coordinated Licensure Information System

15 (a) All party states shall participate in a cooperative
16 effort to create a coordinated data base of all licensed registered
17 nurses and licensed practical or vocational nurses. This system
18 will include information on the licensure and disciplinary history
19 of each nurse, as contributed by party states, to assist in the
20 coordination of nurse licensure and enforcement efforts.

21 (b) Notwithstanding any other provision of law, all party
22 states' licensing boards shall promptly report adverse actions,
23 actions against multistate licensure privileges, any current
24 significant investigative information yet to result in adverse
25 action, denials of applications, and the reasons for such denials
26 to the coordinated licensure information system.

27 (c) Current significant investigative information shall
28 be transmitted through the coordinated licensure information system

1 only to party state licensing boards.

2 (d) Notwithstanding any other provision of law, all party
3 states' licensing boards contributing information to the
4 coordinated licensure information system may designate information
5 that may not be shared with nonparty states or disclosed to other
6 entities or individuals without the express permission of the
7 contributing state.

8 (e) Any personally identifiable information obtained by a
9 party state's licensing board from the coordinated licensure
10 information system may not be shared with nonparty states or
11 disclosed to other entities or individuals except to the extent
12 permitted by the laws of the party state contributing the
13 information.

14 (f) Any information contributed to the coordinated
15 licensure information system that is subsequently required to be
16 expunged by the laws of the party state contributing that
17 information shall also be expunged from the coordinated licensure
18 information system.

19 (g) The compact administrators, acting jointly with each
20 other and in consultation with the administrator of the coordinated
21 licensure information system, shall formulate necessary and proper
22 procedures for the identification, collection, and exchange of
23 information under this compact.

24 ARTICLE VIII. Compact Administration and Interchange
25 of Information

26 (a) The head of the nurse licensing board or his or her
27 designee of each party state shall be the administrator of this
28 compact for his or her state.

1 (b) The compact administrator of each party state shall
2 furnish to the compact administrator of each other party state any
3 information and documents, including, but not limited to, a uniform
4 data set of investigations, identifying information, licensure
5 data, and disclosable alternative program participation information
6 to facilitate the administration of this compact.

7 (c) Compact administrators shall have the authority to
8 develop uniform rules to facilitate and coordinate implementation
9 of this compact. These uniform rules shall be adopted by party
10 states, under the authority invested under Article VI(d).

11 ARTICLE IX. Immunity

12 No party state or the officers or employees or agents of
13 a party state's nurse licensing board who act in accordance with
14 the provisions of this compact shall be liable on account of any
15 act or omission in good faith while engaged in the performance of
16 their duties under this compact. Good faith in this article shall
17 not include willful misconduct, gross negligence, or recklessness.

18 ARTICLE X. Entry into Force, Withdrawal, and Amendment

19 (a) This compact shall enter into force and become
20 effective as to any state when it has been enacted into the laws of
21 that state. Any party state may withdraw from this compact by
22 enacting a statute repealing the same, but no such withdrawal shall
23 take effect until six months after the withdrawing state has given
24 notice of the withdrawal to the executive heads of all other party
25 states.

26 (b) No withdrawal shall affect the validity or
27 applicability by the licensing boards of states remaining party to
28 the compact of any report of adverse action occurring prior to the

1 withdrawal.

2 (c) Nothing contained in this compact shall be construed
3 to invalidate or prevent any nurse licensure agreement or other
4 cooperative arrangement between a party state and a nonparty state
5 that is made in accordance with the other provisions of this
6 compact.

7 (d) This compact may be amended by the party states. No
8 amendment to this compact shall become effective and binding upon
9 the party states unless and until it is enacted into the laws of
10 all party states.

11 ARTICLE XI. Construction and Severability

12 (a) This compact shall be liberally construed so as to
13 effectuate the purposes thereof. The provisions of this compact
14 shall be severable, and if any phrase, clause, sentence, or
15 provision of this compact is declared to be contrary to the
16 constitution of any party state or of the United States or the
17 applicability thereof to any government, agency, person, or
18 circumstance is held invalid, the validity of the remainder of this
19 compact and the applicability thereof to any government, agency,
20 person, or circumstance shall not be affected thereby. If this
21 compact shall be held contrary to the constitution of any state
22 party thereto, the compact shall remain in full force and effect as
23 to the remaining party states and in full force and effect as to
24 the party state affected as to all severable matters.

25 (b) In the event party states find a need for settling
26 disputes arising under this compact:

27 (1) The party states may submit the issues in dispute to
28 an arbitration panel which will be comprised of an individual

1 appointed by the compact administrator in the home state, an
2 individual appointed by the compact administrator in the remote
3 state or states involved, and an individual mutually agreed upon by
4 the compact administrators of all the party states involved in the
5 dispute;

6 (2) The decision of a majority of the arbitrators shall
7 be final and binding.

8 Sec. 2. Section 71-1,132.05, Reissue Revised Statutes of
9 Nebraska, is amended to read:

10 71-1,132.05. For purposes of the Nurse Practice Act,
11 unless the context otherwise requires:

12 (1) Executive director means the executive director of
13 the Board of Nursing;

14 (2) Board means the Board of Nursing;

15 (3) License by endorsement means the granting of active
16 status and the authority to practice to an individual who has been
17 licensed in another jurisdiction;

18 (4) License by examination means the authority to
19 practice is based on an assessment of minimum competency by such
20 means as the board may determine;

21 (5) License, for purposes of discipline, includes the
22 multistate licensure privilege to practice granted by the Nurse
23 Licensure Compact. If the multistate practice privilege is
24 restricted due to disciplinary action by the home state, the
25 department may, upon request by the individual, grant the authority
26 to practice in this state;

27 (6) Licensed practitioner means a person lawfully
28 authorized to prescribe medications or treatments;

1 ~~(6)~~ (7) The practice of nursing means the performance for
2 compensation or gratuitously of any act expressing judgment or
3 skill based upon a systematized body of nursing knowledge. Such
4 acts include the identification of and intervention in actual or
5 potential health problems of individuals, families, or groups,
6 which acts are directed toward maintaining health status,
7 preventing illness, injury, or infirmity, improving health status,
8 and providing care supportive to or restorative of life and
9 well-being through nursing assessment and through the execution of
10 nursing care and of diagnostic or therapeutic regimens prescribed
11 by any person lawfully authorized to prescribe. Each nurse is
12 directly accountable and responsible to the consumer for the
13 quality of nursing care rendered. Licensed nurses may use the
14 services of unlicensed individuals to provide assistance with
15 personal care and activities of daily living;

16 ~~(7)~~ (8) The practice of nursing by a registered nurse
17 means assuming responsibility and accountability for nursing
18 actions which include, but are not limited to:

19 (a) Assessing human responses to actual or potential
20 health conditions;

21 (b) Establishing nursing diagnoses;

22 (c) Establishing goals and outcomes to meet identified
23 health care needs;

24 (d) Establishing and maintaining a plan of care;

25 (e) Prescribing nursing interventions to implement the
26 plan of care;

27 (f) Implementing the plan of care;

28 (g) Teaching health care practices;

1 (h) Delegating, directing, or assigning nursing
2 interventions that may be performed by others and that do not
3 conflict with the act;

4 (i) Maintaining safe and effective nursing care rendered
5 directly or indirectly;

6 (j) Evaluating responses to interventions;

7 (k) Teaching theory and practice of nursing;

8 (l) Conducting, evaluating, and utilizing nursing
9 research;

10 (m) Administering, managing, and supervising the practice
11 of nursing; and

12 (n) Collaborating with other health professionals in the
13 management of health care;

14 ~~(8)~~ (9) The practice of nursing by a licensed practical
15 nurse means the assumption of responsibilities and accountability
16 for nursing practice in accordance with knowledge and skills
17 acquired through an approved program of practical nursing. A
18 licensed practical nurse may function at the direction of a
19 licensed practitioner or a registered nurse. Such responsibilities
20 and performances of acts must utilize procedures leading to
21 predictable outcomes and must include, but not be limited to:

22 (a) Contributing to the assessment of the health status
23 of individuals and groups;

24 (b) Participating in the development and modification of
25 a plan of care;

26 (c) Implementing the appropriate aspects of the plan of
27 care;

28 (d) Maintaining safe and effective nursing care rendered

1 directly or indirectly;

2 (e) Participating in the evaluation of response to
3 interventions; and

4 (f) Assigning and directing nursing interventions that
5 may be performed by others and that do not conflict with the act;

6 ~~(9)~~ (10) Department means the Department of Health and
7 Human Services Regulation and Licensure;

8 ~~(10)~~ (11) Director means the Director of Regulation and
9 Licensure;

10 ~~(11)~~ (12) Clinical nurse specialist means a registered
11 nurse licensed in Nebraska who holds a master's degree or a
12 doctoral degree in a nursing clinical specialty area;

13 ~~(12)~~ (13) Inactive status means the designation given to
14 a licensee who requests this status and pays the fee. A licensee
15 on inactive status is issued a card indicating inactive status but
16 shall not practice;

17 ~~(13)~~ (14) Lapsed status means the designation given to a
18 licensee who requests this status. A licensee on lapsed status
19 shall not practice;

20 ~~(14)~~ (15) Expiration date means the date on which the
21 license expires has passed. The licensee whose license has expired
22 shall not practice;

23 ~~(15)~~ (16) Suspended means the licensee's authority to
24 practice has been temporarily removed as a result of disciplinary
25 action;

26 ~~(16)~~ (17) Revoked means the licensee's authority to
27 practice has been removed as a result of disciplinary action. The
28 licensee may apply for reinstatement of his or her license two

1 years or more after the date of revocation;

2 ~~(17)~~ (18) Reinstatement means the return to active status
3 and the restoration of the authority to practice to a licensee who
4 was previously licensed in this state;

5 ~~(18)~~ (19) Verification means attesting to the current
6 status of an individual's license;

7 ~~(19)~~ (20) Certification means attesting to the current
8 status of an individual's license, any disciplinary action taken,
9 and the means by which the individual was licensed;

10 ~~(20)~~ (21) Probation means that the individual's authority
11 to practice is contingent on the licensee meeting specified
12 conditions imposed as a result of disciplinary action;

13 ~~(21)~~ (22) Limited license means that certain restrictions
14 have been imposed on the individual's authority to practice as a
15 result of disciplinary action;

16 ~~(22)~~ (23) Assignment means appointing or designating
17 another individual the responsibility for the performance of
18 nursing interventions;

19 ~~(23)~~ (24) Delegation means transferring to another
20 individual the authority, responsibility, and accountability to
21 perform nursing interventions; and

22 ~~(24)~~ (25) Direction means managing, guiding, and
23 supervising the nursing interventions performed by another
24 individual.

25 Sec. 3. Section 71-1,132.31, Reissue Revised Statutes of
26 Nebraska, is amended to read:

27 71-1,132.31. The board shall appoint an executive
28 director who is a registered nurse currently licensed in this state

1 and who has a graduate degree in nursing. The executive director
2 shall have a minimum of five years' experience within the last ten
3 years in the areas of administration, teaching, or consultation in
4 the field of nursing. The salary of the executive director shall
5 be fixed by the department and be competitive with salaries for
6 similar positions of responsibility which require similar education
7 and experience. The executive director shall not be a member of
8 the board. The executive director shall be administrator of the
9 Nurse Licensure Compact.

10 The department shall appoint a practice consultant and an
11 education consultant, each of whom is a registered nurse currently
12 licensed in this state and has a minimum of five years' experience.
13 On and after January 1, 1995, any person newly appointed to these
14 positions shall also have a graduate degree in nursing. The
15 salaries for these positions shall be fixed by the department and
16 be competitive with salaries for similar positions of
17 responsibility which require similar education. The nursing
18 education consultant and nursing practice consultant shall not be
19 members of the board.

20 The department shall appoint one or more nurse
21 investigators to conduct investigations of violations of the Nurse
22 Practice Act. Each nurse investigator shall be a registered nurse
23 currently licensed in this state and have a minimum of five years'
24 experience in nursing practice. The nurse investigators shall not
25 be members of the board.

26 Sec. 4. This act becomes operative January 1, 2000.

27 Sec. 5. Original sections 71-1,132.05 and 71-1,132.31,
28 Reissue Revised Statutes of Nebraska, are repealed.